

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1386**

**Introduced by Assembly Member Hayashi**  
*(Principal coauthor: Senator Corbett)*

February 27, 2009

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An act to amend Sections 14528.5 and 14528.55 ~~of of, to amend, repeal, and add Section 14528.6 of, and to add Sections 14528.56 and 14528.65 to~~, the Government Code, and to amend Sections 392, 485, and 538 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Hayashi. State highways.

Existing law authorizes a city or county in which a planned transportation facility was to be located on State Highway Route 238 in Alameda County to develop and file with the California Transportation Commission a local alternative transportation improvement program that addresses transportation problems and opportunities, and provides for the use of revenues from the sales of excess properties acquired for the planned state facility in order to fund the local alternative transportation improvement program, but limits the use of revenues from excess property sales to state highway purposes. Existing law provides that the commission may not approve

a local alternative transportation improvement program under these provisions after July 1, 2010. Similar provisions apply to State Highway Route 84 in the Cities of Fremont and Union City, except that the use of revenues from excess property sales in that corridor are limited to state highway purposes or projects in the local voter-approved transportation sales tax measure.

This bill would modify the restriction limiting use of revenues from excess property sales to state highway purposes applicable to State Highway Route 238 by authorizing those revenues to be used for any highway purpose. This bill would require revenues from excess property sales for State Highway Route 238 and State Highway Route 84 to be deposited into separate accounts in the Special Deposit Fund, a continuously appropriated fund, to be available for expenditure by local agencies for purposes of an approved local alternative transportation improvement program for the applicable corridor route. The bill would thereby make an appropriation.

This bill would also authorize local agencies to advance projects in the local alternative transportation improvement program with local funds, to be repaid when revenues from excess property sales become available, as specified. This bill would require the California Transportation Commission to adopt guidelines in that regard.

*Existing law requires a local alternative transportation improvement program for State Highway Route 238 to provide, among other things, relocation assistance and replacement housing units for persons displaced as a result of the sale of excess properties to fund the local alternative transportation improvement program.*

*This bill would make these provisions inoperative, and would enact new provisions to become operative, on the date on which the superior court issues the final approval order for the settlement agreement related to the disposition of excess properties acquired for the State Route 238 Hayward Bypass Project signed by the department, the City of Hayward, and representatives for members of the class of residents, or on January 1, 2010, whichever comes later. The new provisions would, among other things, require monetary assistance to eligible tenant households and provision of 237 additional new low-income housing units. The new provisions would also require the department to offer the direct sale of eligible excess single-family residences on an as-is, fair market value basis, to current tenants meeting specified requirements and would enact other related provisions in that regard. The bill would authorize proceeds from the sale of excess properties to be used for the cost of*

*selling the properties and various administrative, commercial, or legal costs, including program administration costs to develop and administer the home purchase program and an administrative hearing process for tenants.*

Existing law provides for state highways to be constructed, as determined by the California Transportation Commission, on routes authorized by law. Existing law provides for relinquishment by the commission of state highways to local agencies under certain conditions.

This bill would authorize the commission to relinquish portions of State Highway Routes 92, 185, and 238 in the City of Hayward to that city subject to various conditions.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14528.5 of the Government Code is  
2 amended to read:

3 14528.5. (a) To resolve local transportation problems resulting  
4 from the infeasibility of planned state transportation facilities on  
5 State Highway Route 238 in the City of Hayward and Alameda  
6 County, the city or county in which the planned facilities were to  
7 be located, acting jointly with the transportation planning agency  
8 having jurisdiction over the city or county, may develop and file  
9 with the commission a local alternative transportation improvement  
10 program that addresses transportation problems and opportunities  
11 in the county which were to be served by the planned facilities.  
12 Priorities for funding in the local alternative program shall go to  
13 projects in the local voter-approved transportation sales tax  
14 measure.

15 (b) The commission shall have the final authority regarding the  
16 content and approval of the local alternative transportation  
17 improvement program. The commission shall not approve any  
18 local alternative transportation improvement program submitted  
19 under this section after July 1, 2010.

20 (c) All proceeds from the sale of the excess properties, less any  
21 reimbursements due to the federal government and all costs  
22 incurred in the sale of those excess properties, shall be allocated  
23 by the commission to fund the approved local alternative  
24 transportation improvement program and shall not be subject to

1 Sections 188 and 188.8 of the Streets and Highways Code. ~~The~~  
2 *Except as provided in Section 14528.6, the* proceeds shall be used  
3 only for highway purposes.

4 ~~(d) (1) The department shall maintain a separate account in the~~  
5 ~~state's Special Deposit Fund for the deposit of funds derived from~~  
6 ~~the sale of excess properties pursuant to subdivision (c). All~~  
7 ~~proceeds received by the department from the sale of those excess~~  
8 ~~properties that are available pursuant to subdivision (c) for the~~  
9 ~~local alternative transportation improvement program, less~~  
10 ~~reimbursement for costs incurred by the department for fund~~  
11 ~~administration, shall be deposited in the account, along with all~~  
12 ~~interest earnings generated by funds in the account.~~

13 ~~(2) Funds in the account shall be available for expenditure by~~  
14 ~~local agencies for projects designated in the local alternative~~  
15 ~~transportation improvement program approved by the commission~~  
16 ~~pursuant to this section.~~

17 ~~(e) This section does not apply to those highways that are in the~~  
18 ~~National System of Interstate and Defense Highways.~~

19 ~~(f) This section applies only to State Highway Route 238.~~

20 ~~(g) Section 14528.8 does not apply to projects undertaken~~  
21 ~~pursuant to this section.~~

22 ~~(h) A local jurisdiction may, with the concurrence of the~~  
23 ~~appropriate transportation planning agency, the commission, and~~  
24 ~~the department, advance a project included in the local alternative~~  
25 ~~transportation improvement program prior to the availability of~~  
26 ~~sufficient funds from the sale of excess properties through the use~~  
27 ~~of its own funds. A project advanced in this manner shall be~~  
28 ~~deliverable by the state, or by the local jurisdiction pursuant to~~  
29 ~~agreement, when proposed by the local jurisdiction. Advancement~~  
30 ~~of a project or projects shall not change the priority for funding~~  
31 ~~and delivery of all projects within the approved local alternative~~  
32 ~~transportation improvement program.~~

33 ~~(i) A local agency may enter into an agreement with the~~  
34 ~~appropriate transportation planning agency, the department, and~~  
35 ~~the commission to use its own funds to develop, purchase~~  
36 ~~right-of-way for, and construct a transportation project within its~~  
37 ~~jurisdiction if the project is one that is included in the adopted~~  
38 ~~local alternative transportation improvement program and is funded~~  
39 ~~by the account established in the Special Deposit Fund pursuant~~  
40 ~~to subdivision (d), and meets all of the following requirements:~~

1     ~~(1) Pursuant to the agreement, and from funds allocated by the~~  
2 ~~commission for the project when scheduled in the local alternative~~  
3 ~~transportation improvement program, the department shall~~  
4 ~~reimburse the local agency for the actual cost of constructing the~~  
5 ~~project, including the acquisition of right-of-way. Interest or other~~  
6 ~~debt service costs incurred by local agencies to finance right-of-way~~  
7 ~~acquisition or construction for the project are not reimbursable.~~  
8 ~~Reimbursement made to a local agency pursuant to this subdivision~~  
9 ~~shall be made from the account established in the Special Deposit~~  
10 ~~Fund.~~

11     ~~(2) The amount actually reimbursed to the local agency under~~  
12 ~~paragraph (1) shall be the amount expended by the local agency~~  
13 ~~for right-of-way and construction, escalated by the actual~~  
14 ~~construction cost index between the time of construction award~~  
15 ~~and the time of commission allocation of reimbursement funding,~~  
16 ~~but not to exceed the escalated amount programmed for expenditure~~  
17 ~~for the project in the local alternative transportation improvement~~  
18 ~~program in the originally scheduled year. If the expenditure of~~  
19 ~~local funds does not result in the completion of an operable~~  
20 ~~segment of a transportation project, reimbursement shall be limited~~  
21 ~~to the actual amount expended by the local agency for right-of-way~~  
22 ~~or partial construction, with no escalation factor.~~

23     ~~(3) Pursuant to the agreement, and from funds allocated by the~~  
24 ~~commission for the project when it was scheduled in the local~~  
25 ~~alternative transportation improvement program, the department~~  
26 ~~shall reimburse the local agency for the actual cost of developing~~  
27 ~~the project with local funds pursuant to this subdivision.~~  
28 ~~Reimbursement of project development costs shall not exceed 20~~  
29 ~~percent of estimated construction costs. In no case shall this~~  
30 ~~reimbursement exceed any lesser amount mutually agreed to by~~  
31 ~~the department, commission, and local agency.~~

32     ~~(4) Reimbursements made to local agencies pursuant to this~~  
33 ~~subdivision for expenditures of local voter approved sales and use~~  
34 ~~tax revenues shall be used for the same purposes for which the~~  
35 ~~imposition of the sales and use tax is authorized.~~

36     ~~(5) The commission, in consultation with the department and~~  
37 ~~local transportation officials, shall develop and adopt guidelines~~  
38 ~~to implement this subdivision.~~

39     ~~(j) At the same time of its approval of the local alternative~~  
40 ~~transportation improvement program, the commission, in~~

1 consultation with the department and representatives from regional  
2 agencies and local agencies, shall also adopt guidelines to allocate  
3 local alternative transportation improvement program funds for  
4 expenditure. The guidelines shall include, but not be limited to,  
5 criteria for project applications, estimation of costs, assessment of  
6 capability to complete the project, allocation of funds to project  
7 phases, timely expenditure of funds, management of changes to  
8 cost, scope, and schedules, assessment of progress in implementing  
9 projects, and audit requirements.

10 (d) *“Excess properties” means those properties acquired to*  
11 *construct a new alignment for a freeway or expressway bypass to*  
12 *State Highway Route 238 in the City of Hayward and in the County*  
13 *of Alameda, which project is no longer planned to be constructed.*

14 SEC. 2. Section 14528.55 of the Government Code is amended  
15 to read:

16 14528.55. (a) To resolve local transportation problems  
17 resulting from the infeasibility of planned state transportation  
18 facilities on State Highway Route 84 in the Cities of Fremont and  
19 Union City, the cities or the county in which the planned facilities  
20 were to be located, acting jointly with the transportation planning  
21 agency having jurisdiction over the cities or county, may develop  
22 and file with the commission a local alternative transportation  
23 improvement program that addresses transportation problems and  
24 opportunities in the county that were to be served by the planned  
25 facilities. Priorities for funding in the local alternative program  
26 shall go to projects in the local voter-approved transportation sales  
27 tax measure.

28 (b) The commission shall have the final authority regarding the  
29 content and approval of the local alternative transportation  
30 improvement program. The commission shall not approve any  
31 local alternative transportation improvement program submitted  
32 under this section after July 1, 2010.

33 (c) All proceeds from the sale of the excess properties, less any  
34 reimbursements due to the federal government and all costs  
35 incurred in the sale of those excess properties, shall be allocated  
36 by the commission to fund the approved local alternative  
37 transportation improvement program and shall not be subject to  
38 Sections 188 and 188.8 of the Streets and Highways Code. The  
39 proceeds shall be used only for state highway purposes or for  
40 projects in the local alternative transportation improvement

1 program that are also in the local voter-approved transportation  
2 sales tax measure, subject to approval by the department.

3 ~~(d) (1) The department shall maintain a separate account in the~~  
4 ~~state's Special Deposit Fund for the deposit of funds derived from~~  
5 ~~the sale of excess properties pursuant to subdivision (c). All~~  
6 ~~proceeds received by the department from the sale of those excess~~  
7 ~~properties that are available pursuant to subdivision (c) for the~~  
8 ~~local alternative transportation improvement program, less~~  
9 ~~reimbursement for costs incurred by the department for fund~~  
10 ~~administration, shall be deposited in the account, along with all~~  
11 ~~interest earnings generated by funds in the account.~~

12 ~~(2) Funds in the account shall be available for expenditure by~~  
13 ~~local agencies for projects designated in the local alternative~~  
14 ~~transportation improvement program approved by the commission~~  
15 ~~pursuant to this section.~~

16 ~~(e) This section does not apply to those highways that are in the~~  
17 ~~National System of Interstate and Defense Highways.~~

18 ~~(f) This section only applies to State Highway Route 84.~~

19 ~~(g) Section 14528.8 does not apply to projects undertaken~~  
20 ~~pursuant to this section.~~

21 ~~(h) A local jurisdiction may, with the concurrence of the~~  
22 ~~appropriate transportation planning agency, the commission, and~~  
23 ~~the department, advance a project included in the local alternative~~  
24 ~~transportation improvement program prior to the availability of~~  
25 ~~sufficient funds from the sale of excess properties through the use~~  
26 ~~of its own funds. A project advanced in this manner shall be~~  
27 ~~deliverable by the state, or by the local jurisdiction pursuant to~~  
28 ~~agreement, when proposed by the local jurisdiction. Advancement~~  
29 ~~of a project or projects shall not change the priority for funding~~  
30 ~~and delivery of all projects within the approved local alternative~~  
31 ~~transportation improvement program.~~

32 ~~(i) A local agency may enter into an agreement with the~~  
33 ~~appropriate transportation planning agency, the department, and~~  
34 ~~the commission to use its own funds to develop, purchase~~  
35 ~~right-of-way for, and construct a transportation project within its~~  
36 ~~jurisdiction if the project is one that is included in the adopted~~  
37 ~~local alternative transportation improvement program and is funded~~  
38 ~~by the account established in the Special Deposit Fund pursuant~~  
39 ~~to subdivision (d), and meets all of the following requirements:~~

~~(1) Pursuant to the agreement, and from funds allocated by the commission for the project when scheduled in the local alternative transportation improvement program the department shall reimburse the local agency for the actual cost of constructing the project, including the acquisition of right-of-way. Interest or other debt service costs incurred by local agencies to finance right-of-way acquisition or construction for the project are not reimbursable. Reimbursement made to a local agency pursuant to this subdivision shall be made from the account established in the Special Deposit Fund.~~

~~(2) The amount actually reimbursed to the local agency under paragraph (1) shall be the amount expended by the local agency for right-of-way and construction, escalated by the actual construction cost index between the time of construction award and the time of commission allocation of reimbursement funding, but not to exceed the escalated amount programmed for expenditure for the project in the local alternative transportation improvement program in the originally scheduled year. If the expenditure of local funds does not result in the completion of an operable segment of a transportation project, reimbursement shall be limited to the actual amount expended by the local agency for right-of-way or partial construction, with no escalation factor.~~

~~(3) Pursuant to the agreement, and from funds allocated by the commission for the project when it was scheduled in the local alternative transportation improvement program, the department shall reimburse the local agency for the actual cost of developing the project with local funds pursuant to this subdivision. Reimbursement of project development costs shall not exceed 20 percent of estimated construction costs. In no case shall this reimbursement exceed any lesser amount mutually agreed to by the department, commission, and local agency.~~

~~(4) Reimbursements made to local agencies pursuant to this subdivision for expenditures of local voter approved sales and use tax revenues shall be used for the same purposes for which the imposition of the sales and use tax is authorized.~~

~~(5) The commission, in consultation with the department and local transportation officials, shall develop and adopt guidelines to implement this subdivision.~~

~~(j) At the same time of its approval of the local alternative transportation improvement program, the commission, in~~



1 consultation with the department and representatives from regional  
2 agencies and local agencies, shall also adopt guidelines to allocate  
3 local alternative transportation improvement program funds for  
4 expenditure. The guidelines shall include, but not be limited to,  
5 criteria for project applications, estimation of costs, assessment of  
6 capability to complete the project, allocation of funds to project  
7 phases, timely expenditure of funds, management of changes to  
8 cost, scope, and schedules, assessment of progress in implementing  
9 projects, and audit requirements.

10 (d) *“Excess properties” means those properties acquired to*  
11 *construct a new alignment for State Highway Route 84 in the Cities*  
12 *of Fremont and Union City, a portion of which project is no longer*  
13 *planned to be constructed.*

14 SEC. 3. Section 14528.56 is added to the Government Code,  
15 to read:

16 14528.56. *The following shall pertain to local alternative*  
17 *transportation improvement programs developed and approved*  
18 *pursuant to Sections 14528.5 and 14528.55:*

19 (a) *The department shall maintain a separate account in the*  
20 *state’s Special Deposit Fund for each approved local alternative*  
21 *transportation improvement program into which it will deposit*  
22 *the funds derived from the sale of the respective excess properties*  
23 *pursuant to subdivision (c) of Section 14528.5 and subdivision (c)*  
24 *of Section 14528.55. All proceeds received by the department from*  
25 *the sale of those excess properties that are available pursuant to*  
26 *those subdivisions for the respective local alternative*  
27 *transportation improvement programs, less reimbursement for*  
28 *costs incurred by the department for administration of each*  
29 *account, shall be deposited in each respective account, along with*  
30 *all interest earnings generated by the funds in the respective*  
31 *account.*

32 (b) *Funds in each account shall be available for expenditure*  
33 *by the local agencies for projects designated in the respective local*  
34 *alternative transportation improvement program approved by the*  
35 *commission pursuant to Section 14528.5 or 14528.55.*

36 (c) *This section applies only to State Highway Routes 84 and*  
37 *238, and to the local alternative transportation programs approved*  
38 *pursuant to Section 14528.5 or 14528.55.*

39 (d) *Section 14528.8 does not apply to projects undertaken*  
40 *pursuant to Section 14528.5 or 14528.55.*

1     (e) A local jurisdiction may, with the concurrence of the  
2     appropriate transportation planning agency, the commission, and  
3     the department, advance a project included in the local alternative  
4     transportation improvement programs prior to the availability of  
5     sufficient funds from the sale of respective excess properties,  
6     through the use of its own funds. A project advanced in this manner  
7     shall be deliverable by the state, or by the local jurisdiction  
8     pursuant to agreement, when proposed by the local jurisdiction.  
9     Advancement of a project or projects shall not change the priority  
10    for funding and delivery of all projects within each respective  
11    approved local alternative transportation improvement program.

12    (f) A local agency may enter into an agreement with the  
13    appropriate transportation planning agency, the department, and  
14    the commission to use its own funds to develop, purchase  
15    right-of-way for, and construct a transportation project within its  
16    jurisdiction if the project is one that is included in the respective  
17    local alternative transportation improvement program and is  
18    funded by the individual account established in the Special Deposit  
19    Fund pursuant to subdivision (a), and meets all of the following  
20    requirements:

21    (1) Pursuant to the agreement, and from funds allocated by the  
22    commission for the project when scheduled in the local alternative  
23    transportation improvement program, the department shall  
24    reimburse the local agency for the actual cost of constructing the  
25    project, including the acquisition of right-of-way. Interest or other  
26    debt service costs incurred by local agencies to finance  
27    right-of-way acquisition or construction for the project are not  
28    reimbursable. Reimbursement made to a local agency pursuant  
29    to this subdivision shall be made from the respective account  
30    established in the Special Deposit Fund.

31    (2) The amount actually reimbursed to the local agency under  
32    paragraph (1) shall be the amount expended by the local agency  
33    for right-of-way and construction. If the expenditure of local funds  
34    does not result in the completion of an operable segment of a  
35    transportation project, reimbursement shall be limited to the actual  
36    amount expended by the local agency for right-of-way or partial  
37    construction, with no escalation factor.

38    (3) Pursuant to the agreement, and from funds allocated by the  
39    commission for the project when it was scheduled in the local  
40    respective alternative transportation improvement program, the

1 department shall reimburse the local agency for the actual cost of  
2 developing the project with local funds pursuant to this subdivision.  
3 Reimbursement of project development costs shall not exceed 20  
4 percent of estimated construction costs. In no case shall this  
5 reimbursement exceed any lesser amount mutually agreed to by  
6 the department, commission, and local agency.

7 (4) Reimbursements made to local agencies pursuant to this  
8 section for expenditures of local voter-approved sales and use tax  
9 revenues shall be used for the same purposes for which the  
10 imposition of the sales and use tax is authorized.

11 (5) The commission, in consultation with the department and  
12 local transportation officials, shall develop and adopt guidelines  
13 to implement this subdivision.

14 (g) At the time of its approval of the respective local alternative  
15 transportation improvement program, the commission, in  
16 consultation with the department and representatives from regional  
17 and local agencies, shall also incorporate, into the state  
18 transportation improvement program guidelines, additional  
19 guidelines specific to the local alternative transportation  
20 improvement program. The additional guidelines shall include,  
21 but need not be limited to, criteria for project applications,  
22 estimation of costs, assessment of capability to complete the  
23 project, allocation of funds to project phases, timely expenditure  
24 of funds, management of changes to cost, scope, and schedules,  
25 assessment of progress in implementing projects, and audit  
26 requirements.

27 SEC. 4. Section 14528.6 of the Government Code is amended  
28 to read:

29 14528.6. A local alternative transportation improvement  
30 program, approved pursuant to Section 14528.5, shall include all  
31 of the following:

32 (a) A program to provide relocation assistance for residents  
33 eligible for relocation assistance pursuant to Chapter 16  
34 (commencing with Section 7260) of Division 7 of Title 1 of this  
35 code and guidelines adopted pursuant to Section 50460 of the  
36 Health and Safety Code.

37 (b) A program to provide relocation assistance for all lower  
38 income households, regardless of their eligibility for assistance  
39 pursuant to subdivision (a), who will be displaced from their  
40 residences because of actions taken to finance or implement the

1 local alternative improvement transportation program, including  
2 sale or removal of their residences. To be eligible for assistance,  
3 lower income households shall have occupied their residence on  
4 the date that the local alternative transportation improvement  
5 program was approved by the commission. The program shall  
6 comply with the requirements, except eligibility requirements, of  
7 Chapter 16 (commencing with Section 7260) of Division 7 of Title  
8 1 of this code and with guidelines adopted pursuant to Section  
9 50460 of the Health and Safety Code.

10 (c) A program to provide all persons or families who are not  
11 otherwise eligible for assistance pursuant to subdivisions (a) and  
12 (b), with relocation advice and moving expenses, as defined in  
13 Section 7261 and subdivisions (a) and (b) of Section 7262.

14 (d) A program to provide replacement housing units for persons  
15 and families of low or moderate income at an affordable housing  
16 cost. At a minimum, the program shall provide that the total  
17 number of new units for persons or families of low or moderate  
18 income to be provided shall be equal to or greater than the number  
19 of units occupied by persons or families of low or moderate income  
20 displaced by the local alternative transportation improvement  
21 program, and that the total number of new housing units to be  
22 provided for lower income households shall be equal to or greater  
23 than the number of units occupied by lower income households  
24 displaced by the local alternative transportation improvement  
25 program. The number of units so provided shall be determined at  
26 least one year prior to the date the commission approves the local  
27 alternative transportation improvement program. If it is not feasible  
28 to replace the total number of units required on surplus public  
29 property, other types of property shall be used in order to provide  
30 the replacement units. Replacement of the units shall be completed  
31 utilizing funds other than those derived from the sale of excess  
32 properties and shall be completed within four years of the date the  
33 persons or families are displaced or, if unoccupied, from the date  
34 of demolition or removal. Unoccupied units shall be replaced in  
35 the same ratio as units occupied by persons and families of low  
36 and moderate income in the right-of-way. It shall be an objective  
37 of the program that, where financially feasible, the number of new  
38 housing units of persons and families of low or moderate income  
39 shall be not less than 20 percent of all new housing units developed  
40 on the aggregate surplus public property.

1 (e) For purposes of this section, the terms “affordable housing  
2 cost,” “lower income households,” and “persons and families of  
3 low or moderate income” shall be defined as provided in Division  
4 31 (commencing with Section 50000) of the Health and Safety  
5 Code.

6 (f) Unless specifically stated, this section shall in no way reduce  
7 or limit any requirements for the provision of housing for persons  
8 or families of low or moderate income as contained in any other  
9 provision of law.

10 (g) No state highway account funds shall be expended for  
11 planning or implementing the housing provisions of the local  
12 alternative transportation improvement program which are required  
13 to be carried out pursuant to subdivisions (b) to (d), inclusive.

14 (h) Neither the excess property nor the proceeds from the sale  
15 of the excess property shall be used for housing purposes. The  
16 excess property may be used for housing purposes after sale by  
17 the department.

18 (i) *This section shall become inoperative on the date on which  
19 the superior court issues the final approval order for the settlement  
20 agreement related to the disposition of excess properties acquired  
21 for the State Route 238 Hayward Bypass Project signed by the  
22 department, the City of Hayward, and representatives for members  
23 of the class of residents, or on January 1, 2010, whichever comes  
24 later. This section shall be repealed on January 1 of the year  
25 following the year in which it becomes inoperative.*

26 *SEC. 5. Section 14528.6 is added to the Government Code, to  
27 read:*

28 *14528.6. (a) A local alternative transportation improvement  
29 program, approved pursuant to Section 14528.5, and pursuant to  
30 the terms and conditions of the applicable court-approved  
31 settlement agreement related to the disposition of excess properties  
32 acquired for the State Route 238 Hayward Bypass Project signed  
33 by the department, the City of Hayward, and representatives for  
34 members of the class of residents, shall include all of the following:*

35 *(1) A program to provide monetary assistance for eligible tenant  
36 households occupying a corridor property on or before December  
37 31, 2009.*

38 *(2) A program to provide 237 additional new low-income  
39 housing units in the corridor.*

1     (3) A program to provide home purchase assistance to eligible  
2     tenant households in single-family residences.

3     (b) For the purpose of funding a local alternative transportation  
4     improvement program, approved pursuant to Section 14528.5,  
5     neither the excess property nor the proceeds from the sale of the  
6     excess property shall be used for housing or housing-related  
7     programs, including, but not limited to, any direct monetary  
8     assistance to tenants, development of any new low-income housing  
9     units, or providing any direct home purchase assistance to  
10    occupants of the excess properties. The excess property may be  
11    used for housing purposes after sale by the department.

12    (c) Notwithstanding subdivision (b), proceeds from the sale of  
13    the excess properties may be used for the cost of selling the  
14    properties, including all of the following:

15    (1) All necessary surveys of tenants occupying excess properties.

16    (2) Appraisal costs, including review appraisals.

17    (3) Program administration costs to develop and administer  
18    the home purchase program.

19    (4) Program administration costs to develop and provide an  
20    administrative hearing process for excess property tenants related  
21    to any housing programs or program assistance offered to those  
22    excess property tenants.

23    (5) Other administrative, commercial, or legal costs necessary  
24    for selling the excess properties.

25    (d) Any person or persons commencing initial occupancy of or  
26    entering into a new rental or lease agreement for a property  
27    located on the State Route 238 Hayward Bypass Project on or  
28    after January 1, 2010, and before the sale of the properties by the  
29    department or its authorized agent, shall not be eligible for any  
30    additional relocation assistance under any provision of state law,  
31    including Section 50460 of the Health and Safety Code, and shall  
32    be notified prior to occupying the property that such occupancy,  
33    rental, or lease is temporary regardless of length of occupancy.

34    (e) For purposes of this section, "eligible tenant household"  
35    shall mean a household comprised of a tenant or group of tenants  
36    in good standing, pursuant to a valid, written rental agreement  
37    with the department as of the date on which the superior court  
38    preliminarily approves the settlement agreement described in  
39    subdivision (a), and who are members of the class covered by that  
40    settlement.

1     (f) *This section shall become operative on the date on which*  
2 *the superior court issues the final approval order for the settlement*  
3 *agreement related to the disposition of excess properties acquired*  
4 *for the State Route 238 Hayward Bypass Project signed by the*  
5 *department, the City of Hayward, and representatives for members*  
6 *of the class of residents, or on January 1, 2010, whichever comes*  
7 *later.*

8     SEC. 6. *Section 14528.65 is added to the Government Code,*  
9 *to read:*

10     14528.65. (a) *All of the following shall apply to the sale or*  
11 *other disposition of excess property to fund the local alternative*  
12 *transportation improvement program approved pursuant to Section*  
13 *14528.5:*

14     (1) *At the time the commission rescinds the freeway adoption*  
15 *previously approved for the State Route 238 Hayward Bypass*  
16 *Project, and the commission approves the local alternative*  
17 *transportation improvement program, the commission shall*  
18 *authorize the department to sell, on an “as is” basis at fair market*  
19 *value, the excess properties acquired for the State Route 238*  
20 *Hayward Bypass Project. However, any properties required for*  
21 *the implementation of the local alternative transportation*  
22 *improvement program shall not be sold.*

23     (2) *Article 8.5 (commencing with Section 54235) of Chapter 5*  
24 *of Part 1 of Division 2 of Title 5 does not apply to the sale of excess*  
25 *property pursuant to this section.*

26     (3) *The disposition of excess property pursuant to this section*  
27 *shall be exempt from Chapter 3 (commencing with Section 21100)*  
28 *to Chapter 6 (commencing with Section 21165), inclusive, of*  
29 *Division 13 of the Public Resources Code. Upon title to the parcel*  
30 *vesting in the purchaser or transferee of the property, the*  
31 *purchaser or transferee shall be subject to any local governmental*  
32 *land use entitlement approval requirements and to Chapter 3*  
33 *(commencing with Section 21100) to Chapter 6 (commencing with*  
34 *Section 21165), inclusive, of Division 13 of the Public Resources*  
35 *Code. “Disposition” means the sale, exchange, sale combined*  
36 *with exchange, or transfer of a parcel of excess property.*

37     (4) *The department shall offer the direct sale, “as is” at fair*  
38 *market value, of an eligible excess single-family residence located*  
39 *on the State Route 238 Hayward Bypass Project properties, to the*  
40 *residential tenant of that residence if the tenant is in good standing*

1 in the residence and has a tenure of two years or more, with all  
2 rent obligations current and paid in full. For purposes of this  
3 section, “eligible excess single-family residence” means an excess  
4 single-family residence determined to be eligible for sale to  
5 single-family residential tenants pursuant to the settlement  
6 agreement described in subdivision (a) of Section 14528.6. The  
7 commission is hereby authorized and directed to approve any such  
8 sale transaction provided the commission determines the sale to  
9 be “as is” at fair market value.

10 (5) If a residential tenant in single-family residence qualifies  
11 for the direct sale as provided for in paragraph (4), and the  
12 residential tenant is unable to purchase the single-family residence  
13 occupied by the tenant because that single-family residence is  
14 ineligible for direct sale, the department declines to allow the  
15 direct sale of that single-family residence, the tenant does not  
16 qualify for financing for that single-family residence, the condition  
17 of the subject single-family residence does not allow financing, or  
18 the tenant needs a larger or smaller single-family residence, the  
19 department shall offer to the residential tenant the direct sale, “as  
20 is” at fair market value, of other available eligible excess  
21 single-family residences located on the State Route 238 Hayward  
22 Bypass Project properties. The commission is hereby authorized  
23 and directed to approve any such sale transaction provided the  
24 commission determines the sale to be “as is” at fair market value.

25 (6) The department may hire, or cause to be hired, an appraiser  
26 to determine the “as is” fair market value of any single-family  
27 residence for which a direct sale to a residential tenant is  
28 contemplated as provided for in paragraph (4) or (5). The  
29 appraiser shall, at a minimum, be in good standing, be designated  
30 a Senior Residential Appraiser by the Appraisal Institute, possess  
31 a certified residential license, and have knowledge of the City of  
32 Hayward and County of Alameda single-family residence  
33 residential housing market. The department, at its sole election,  
34 may undertake an appraisal review. The commission is hereby  
35 authorized and directed to approve an appraisal review as  
36 provided in this section. However, the commission retains the  
37 authority to determine that the appraisal or appraisal review  
38 accurately determined the “as is” fair market value according to  
39 the processes and procedures identified or referenced in this  
40 section. For the purposes of this section, “fair market value” has



1 *the meaning set forth in Section 1263.320 of the Code of Civil*  
2 *Procedure.*

3 *(b) This section shall become operative on the date on which*  
4 *the superior court issues the final approval order for the settlement*  
5 *agreement related to the disposition of excess properties acquired*  
6 *for the State Route 238 Hayward Bypass Project signed by the*  
7 *department, the City of Hayward, and representatives for members*  
8 *of the class of residents, or on January 1, 2010, whichever comes*  
9 *later.*

10 ~~SEC. 3.~~

11 *SEC. 7.* Section 392 of the Streets and Highways Code is  
12 amended to read:

13 392. (a) Route 92 is from:

14 (1) Route 1 near Half Moon Bay to Route 280.

15 (2) Route 280 to Route 580 near Castro Valley and Hayward.

16 (b) (1) The commission may relinquish to the City of Hayward  
17 the portion of Route 92 located within the city limits of that city,  
18 upon terms and conditions the commission finds to be in the best  
19 interests of the state, if the department and the city enter into an  
20 agreement providing for that relinquishment.

21 (2) A relinquishment under this subdivision shall become  
22 effective immediately after the county recorder's recordation of  
23 the relinquishment resolution containing the commission's approval  
24 of the terms and conditions of the relinquishment.

25 (3) On and after the effective date of the relinquishment, both  
26 of the following shall occur:

27 (A) The portion of Route 92 relinquished shall cease to be a  
28 state highway.

29 (B) The portion of Route 92 relinquished shall be ineligible for  
30 future adoption under Section 81.

31 (4) For relinquished portions of Route 92, the City of Hayward  
32 shall maintain signs within its jurisdiction directing motorists to  
33 the continuation of Route 92 or to the state highway system, as  
34 applicable.

35 ~~SEC. 4.~~

36 *SEC. 8.* Section 485 of the Streets and Highways Code is  
37 amended to read:

38 485. (a) Route 185 is from Route 92 in Hayward to Route 77  
39 in Oakland.

(b) (1) The commission may relinquish to the City of Hayward the portion of Route 185 located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state, if the department and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately after the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 185 relinquished shall cease to be a state highway.

(B) The portion of Route 185 relinquished shall be ineligible for future adoption under Section 81.

(4) For relinquished portions of Route 185, the City of Hayward shall maintain signs within its jurisdiction directing motorists to the continuation of Route 185 or to the state highway system, as applicable.

~~SEC. 5.~~

*SEC. 9.* Section 538 of the Streets and Highways Code is amended to read:

538. (a) Route 238 is from Route 680 in Fremont to Route 61 near San Lorenzo via Hayward.

(b) (1) The commission may relinquish to the City of Hayward the portion of Route 238 located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state, if the department and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately after the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 238 relinquished shall cease to be a state highway.

(B) The portion of Route 238 relinquished shall be ineligible for future adoption under Section 81.

1     (4) For relinquished portions of Route 238, the City of Hayward  
2 shall maintain signs within its jurisdiction directing motorists to  
3 the continuation of Route 238 or to the state highway system, as  
4 applicable.

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